

OFFICE OF THE COMMISSIONER OF CUSTOMS (EXPORT)
NEW CUSTOM HOUSE, BALLARD ESTATE, MUMBAI – 400 001.

F.No. S/16-Misc-37/2020-21 DEEC M. CELL

Date: 12/04/2021

Standing Order No. 01/2021

Sub: Standard Operating Procedure (SOP) for Duty Entitlement Exemption Scheme (DEEC) and Export Promotion Capital Goods (EPCG) Monitoring Cell of Export Commissionerate of Mumbai Customs Zone-I- Reg

The DEEC and EPCG Monitoring Cells are the sections of Export Commissionerate which monitors export obligation to be fulfilled by the licence holder under the relevant licence and in case of failure of the same by the licence holder, initiate action to recover the duty saved against the said licence in coordination with the licence issuing regional authority of DGFT. It has come to notice that the licences are not being monitored and records thereto have not been updated on regular basis leading to piling of the number of licences. The pendency of these licences is of great concern now and requires an urgent action in order to verify their status for recovery of duty, if any, against them.

Attention of all Officers/ Staff posted at DEEC and EPCG Monitoring Cell is invited to the Standard Operating Procedure (SOP), to be followed while monitoring the DEEC and EPCG licences for fulfilment of export obligation and any other condition stipulated thereto, which is outlined hereunder:

1. Permission for the Registration of Licences in Licence Section:

When the licence holder approaches Monitoring Cell for the registration of the licence, Verification of status of the other licences of the said licence holders shall be done before allowing the no objection for registration of licence by the Licencing Section, Import-II Commissionerate, New Custom House, Mumbai-I.

- (i) In case the validity period of such licences is over, then it shall be verified for Export Obligation Discharge Certificate (EODC) / Redemption Letter (RL) and ensure that EODC /RL are submitted against such licences by the licence holder. Where the licence holder has not submitted EODC /RL but filed an application to the licence issuing regional authority of DGFT for issuance of EODC /RL against their licences, the application with the acknowledgement thereto shall be verified (Ref: Cir.No.16/2017-Cus dated 02.05.2017).
- (ii) In case of EPCG licences, in addition to verification as stipulated above, irrespective of the validity period of the licence, it is to be ensured that the installation certificates are submitted by licence holder within 6 months of completion of imports as stipulated in the corresponding customs notifications.

If the application for registration of licence is in order in terms of the parameters (i) and (ii) mentioned above, then NOC for Registration of the licence may be given with the approval of Assistant Commissioner of Monitoring Cell. However, each case has to be dealt on merits and cases which are not coming under above parameters shall be decided by examining circumstances of individual case to arrive at judicious decision by the competent authority.

2. Receipt of the Licence file from Licence Section:

(a) On receipt of the licence file/e-file from the Licence Section, Import-II Commissionerate, New Custom House, Mumbai-I, the file/e-file shall be scrutinised mainly for the following Documents:

- (i) Copy of Licence;
- (ii) Bond;
- (iii) Bank Guarantee, if any.

In case the licence is registered against the execution of Bank Guarantee in addition to the Bond, it shall be ensured that

- (i) The Bank Guarantee has been accepted by the assessing Group;
- (ii) The verification of the issuance of Bank Guarantee from the concerned Bank has been done and certification thereof;
- (iii) There is no discrepancy in the contents of the Bank Guarantee such as its validity period, details of the licence, name of the licence holder and its address etc., signature of the bank authorised officer etc.;
- (iv) The autorenewal clause has been a part of the Bank Guarantee and the obligation on the part of the issuing Bank to auto renew the said Bank Guarantee has been clearly defined and there is no ambiguity about the autorenewal even when the validity of the Bank Guarantee has been specifically mentioned.
- (v) If the Bank Guarantee is found deficient on the above points, then the facts shall be brought to the notice of the AC/Monitoring Cell and deficiency letter shall be issued to the issuing bank with the approval of AC/Monitoring Cell for rectification of the contents in the Bank Guarantee.

(b) When the documents in the file are in order, then the file/e-file number of the Monitoring cell shall be allotted to the file and details of the licence shall be entered in the Master Register/E-Master file & shared on boxfile/google drive file online maintained thereto. All the details in relation to the licence mainly such as licence No/ date, the details of the licence issuing regional authority of DGFT, the validity of the licence, the duty saved under the licence, details of Bond and BG filed for the licence. Every care has to be taken to enter the all the details of BG in the master register which mainly consists of Details of the Bank and its address and contact Number issuing the Bank Guarantee, the amount secured under the Bank Guarantee and validity date mentioned in the Bank Guarantee and also to mention about the auto renewal cause in the Bank Guarantee as "YES" or "NO". The Tax Assistant / Office Supdt./ACAO shall ensure the details are entered in the Master register in time and submit to the Supdt.(Admn) for certification of correctness of entries made. The Tax Assistant / Office Supdt./ACAO shall visit the Licence Section of Import-II Commissionerate, New Custom House, Mumbai-I to verify the licences registered relevant to Advance authorisation/EPCG scheme and cross verify with the licence files/e-file received in the section. Statement of such verification on fortnightly basis shall be submitted to AC/DC (Monitoring Cell).

(c) An officer from Monitoring Cell as detailed in office order issued in this regard by AC/DC concerned shall be given exclusive responsibility to monitor Bank Guarantees filed relevant to the licence being monitored. The said officer has to ensure that the bank Guarantee shall be encashed or its validity period be extended, as deemed fit, well in time whenever the licence holder is unable to submit the EODC/RL in the stipulated time by submission thereto in detail to AC/DC (Monitoring Cell) and subject to the approval of AC/DC (Monitoring Cell). The TA / Monitoring Cell has to maintain the Bank Guarantee Register as well as in E-file for BGs. The entry of BG therein shall be correlated with that number of entry in the Master register/E-Master file. The location of each BG relevant to the licence being monitored shall be categorically mentioned in the Master Register and BG Register and same shall be confirmed from the section holding the custody of the original BG. The register/e-file so maintained shall be reviewed by Supdt. (Admin) and AC/DC (Monitoring Cell) on fortnightly basis.

3. Role of the officers of Monitoring Cell:

The officers monitoring the fulfilment of export obligation against the licence plays a important role in recovery of duty saved against the licence by initiating timely action thereto in the event of failure on the part of licence holder. In order to effectively monitor, a Central Database of all licences shall be maintained which has simultaneous access to all the officer of Monitoring Cell and which shall be updated on regular basis. The officers monitoring licences under their charge have mainly to perform the following duties:

(a) The officers monitoring the licences shall make list of licence under their charge as per the month in which the validity period of licence is going to expire in order to effective monitoring of the same. The list shall be prepared at the beginning of every financial year and updated fortnightly.

(b) Where the EODC/RL has been issued by the Regional Authority, DGFT:

(i) In case photocopy thereto is submitted by the licence holder then the status of same may be verified from the DGFT website. If the status is not available on the website the matter shall be taken with the Regional authority with DGFT for confirmation of its issuance. On receipt of said confirmation the Bond and BG relevant to the said licence shall be cancelled and letter thereto shall be issued to the licence holder immediately and master data of licences shall be updated accordingly. List of cases where no reply is received be referred to the regional authorities of DGFT during the Co-ordination meeting held between the officials of DGFT and Customs on monthly basis

(ii) In case the original copy is submitted by the licence holder then the Bond and BG relevant to the said licence shall be cancelled and letter thereto shall be issued to the licence holder immediately and master data of licences shall be updated accordingly.

(c) Where the EODC/RL has not been submitted by Licence Holder with in the validity period of licence:

(i) The officer at least one month before the completion of the validity period shall examine, in coordination with BG monitoring officer, whether any BG has been filed against the licence and if any BG is executed by the licence holder, then same shall be retrieved from its custodian and the issuing bank shall be immediately informed for the enforcement of the same well prior to its expiry. Meantime, a letter to licence holder to produce the EODC/RL and a letter to Regional Authority (RA) of DGFT for the status of EODC/RL shall be issued well in time before the expiry of validity period of licence.

(ii) In case no reply is received from the licence holder, an all India alert may be inserted in ICES System under ALT role against the licence holder for the production of EODC/RL against the impugned licence with approval of Commissioner of Customs (Export). The option of Show Cause Notice shall be exercised to demand duty saved against the licence along with the interest thereon under Section 143 of Customs Act, 1962 and for the imposition of Penalty under Section 112(o) of Customs Act, 1962 and adjudication of the issued SCN shall be completed in a time stipulated thereto.

(d) Where the licence holder has preferred for liquidation and rehabilitation before NCLT, The case shall be referred immediately to NCLT Cell for filing due claims against the licence holder, in time. SOP/S.O. dated 29.01.2021 vide F. No. S/16/Misc-13/2020-21 NCLT(Exp.) issued for NCLT Cell is enclosed.

(e) Where Audit Paras has been raised with respect to a licence

The reply to the Audit Paras shall be submitted within 03 days of receipt of the same.

(f) Where Parliament Question has been raised in relation to the Monitoring Cell

The reply to the Parliament Question shall be prepared immediately

The monitoring work performed by officers would be reviewed by JC (Export) on fortnightly basis, who shall put a summary of the work of monitoring cell before Commissioner of Customs (Export) on every month end.


(Manish Mani Tiwari)

Commissioner of Customs (Export)

Copy to:

The Pr. Chief Commissioner of Customs, Mumbai Custom Zone-I, NCH, Mumbai-01.